

Message Text

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INFO OCT-01 SS-14 ADP-00 ARA-08 M-03 JUSE-00 RSC-01 /029 R

DRAFTED BY L/ ARA: DAGANTZ: CF

5/18/73 EXT 22160

APPROVED BY ARA: RAHURWITCH

ARA: CEN: JBURKE

M: DG: WOHALL(DRAFT)

L/ M/ SCA: KEMALMBORG(DRAFT)

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P R 182141 Z MAY 73

FM SECSTATE WASHDC

TO AMEMBASSY MANAGUA PRIORITY

INFO AMCONSUL NASSAU

C O N F I D E N T I A L STATE 095962

LIMDIS

E. O. 11652: GDS

TAGS: NU, CFED

SUBJECT: PROSECUTION OF BERTRAM PODELL

REF: SHELTON- BROWER LETTER, MAY 7, 1973

FOR AMBASSADOR

1. L HAS REVIEWED REF WITH ACCOMPANYING DOCUMENTS AND HAS DISCUSSED MATTER BRIEFLY WITH ASSISTANT U. S. ATTORNEY RUDOLF GIULIANI. ACCORDINGLY, WE ARE TAKING NECESSARY ACTION TO (A) DECLASSIFY ALL BUT ONE OF CABLES IN QUESTION (NASSAU 15 OF JANUARY 3, 1969) SO THEY CAN BE PRESENTED TO GRAND JURY AND (B) AUTHORIZE YOU TO EXECUTE STATEMENT AND, ULTIMATELY (IF REQUESTED) APPEAR IN COURT TO TESTIFY TO AUTHENTICITY AND ACCURACY OF CABLES.

2. THERE IS NO SEPARATION OF POWERS PROBLEM WITH RESPECT TO YOUR SIGNING STATEMENT FOR USE IN U. S. FEDERAL

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PROSECUTION OR APPEARING AS WITNESS IN CRIMINAL ACTION.

HOWEVER, LONGSTANDING DEPARTMENTAL PRACTICE REQUIRES SPECIFIC AUTHORIZATION OF DEPUTY UNDER SECRETARY FOR MANAGEMENT TO PERMIT DEPARTMENT OFFICER TO PROVIDE STATEMENT OR GIVE TESTIMONY BEFORE COURT. AUTHORITY HAS BEEN REQUESTED; WE WILL ADVISE YOU WHEN IT IS GRANTED.

3. CLASSIFIED OR ADMINISTRATIVELY CONTROLLED STATE DEPARTMENT DOCUMENTS CANNOT BE PRESENTED TO GRAND JURY IN MOST CIRCUMSTANCES. HOWEVER, AT ASSISTANT U. S. ATTORNEY'S REQUEST, WE HAVE DETERMINED THAT ALL BUT ONE OF CABLES CAN BE DECLASSIFIED OR DECONTROLLED AND HAVE DONE SO. ASSISTANT U. S. ATTORNEY EXPECTS TO PROVIDE DOCUMENTS (EXCEPT NASSAU'S 15) TO GRAND JURY ON MAY 22, AND YOUR STATEMENT AS SOON AS IT CAN BE EXECUTED AND IS RECEIVED BY HIM IN NEW YORK.

4. IF PODELL IS INDICTED, IT WILL PROBABLY BE NECESSARY FOR YOU TO APPEAR AT TRIAL TO TESTIFY TO AUTHENTICITY AND, TO BEST OF YOUR RECOLLECTION, ACCURACY OF DOCUMENTS. (SWORN STATEMENT, WHILE ACCEPTABLE BEFORE GRAND JURY, IS NOT SUFFICIENT IN FEDERAL CRIMINAL TRIAL.) WE EXPECT TO OBTAIN THIS AUTHORITY SIMULTANEOUSLY.

5. IF YOU HAVE FURTHER QUESTIONS, PLEASE ADVISE DEPARTMENT ASAP. RUSH

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*** Current Handling Restrictions *** LIMDIS
*** Current Classification *** CONFIDENTIAL

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